

STATE OF NORTH CAROLINA  
COUNTY OF BURKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
14DHR08300

SUSAN ARROWOOD AND ARROWOOD )  
COUNSELING AND CONSULTING, INC. )  
Petitioners, )  
 )  
v. )  
 )  
PARTNERS BEHAVIORAL HEALTH )  
MANAGEMENT *as legally authorized* )  
*contractor of and agent for* N.C. DEPARTMENT )  
OF HEALTH AND HUMAN SERVICES, )  
 )  
Respondent. )  
 )  
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 )  
 )

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### **SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is entered into effective upon full execution by and between Susan Arrowood and Arrowood Counseling and Consulting, Inc. (collectively, “Arrowood” or “Petitioners”) and Partners Behavioral Health Management ("Partners BHM" or “Respondent”)(collectively “Parties” and individually “Party”), subject to full execution by all Parties.

### **WITNESSETH:**

WHEREAS, Partners BHM is a Local Management Entity/Managed Care Organization ("LME/MCO") as defined at N.C. Gen. Stat. §122C-3(20c), and manages publicly-funded mental health, intellectual/ developmental disability and substance abuse services for consumers enrolled in the Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin Counties (“Partners' Catchment Area”); and

WHEREAS, Arrowood is a former contracted provider and formerly credentialed licensed independent professional (LIP) in Partners’ Catchment Area; and

WHEREAS, Arrowood is currently a therapist providing certain publicly-funded services to recipients under credentials and a contract with Smoky Mountain MCO; and formerly provided therapy services to recipients under credentials and a contract with Partners BMH; and

WHEREAS, Partners BHM terminated its contract with Arrowood in 2013, which was upheld by Final Decision and Order of Dismissal signed and entered January 7, 2014 in case 14 DHR 19981, which decision was not appealed; and

WHEREAS, Susan Arrowood subsequently was suspended and then decredentialed as a licensed independent practitioner (LIP) in the Partners BMH network, stemming from the same actions underlying the contested case captioned as 14 DHR 19981, but now giving rise to this current contested case captioned as 14 DHR 08300 ("Dispute"); and

WHEREAS, the Parties desire to compromise and settle any and all existing, threatened and potential disputes, claims, or rights between them as to this Dispute.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants hereinafter set forth, for agreed upon other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties, for themselves and their predecessors, successors, managers, assigns, officers, directors, employees, and agents, agree as follows:

1. The settlement effected by this Agreement is a compromise of disputed claims, made to avoid the uncertainty and expense of litigation. The promises and terms agreed to herein are not to be construed as an admission of any liability, nonconformity, error, or other deficiency on the part of any Party, alleged or unalleged. Any such liability, nonconformity, error, or other deficiency is expressly denied by the respective Parties. The Parties agree to act in good faith to fulfill the conditions set forth in this agreement.

2. Partners BHM agrees to allow Susan Arrowood to apply to be recredentialed as a therapist employed and supervised by a Partners BHM contracted agency in good standing, with no outstanding disputes or litigation, (the "Contracted Agency") provided that all the requirements of this Agreement are first met. Partners BHM further agrees that Arrowood will be allowed to apply for credentialing under the terms of this Agreement for any other Partners BHM contracted agency in the event or circumstance that Arrowood can no longer provide services through the original Contracted Agency. Arrowood will not apply as an LIP or as anything other than via a contracted agency application.

3. Arrowood agrees that within five (5) business days of receiving the complete execution of this Agreement:

a. Petitioners will certify via sworn affidavit that:

- i. Arrowood is in good standing with all other LME/MCOs for whom Arrowood currently provides services, listing those LME/MCOs;
- ii. Arrowood was never suspended, decredentialed, terminated or otherwise voluntarily or involuntarily excluded or separated from another LME/MCO's provider or provider network in any capacity in any manner less than in good standing with those other LME/MCOs, if any; and
- iii. Arrowood has complied (or through this Agreement shall comply) with all remaining post-termination and surviving requirements of Arrowood's prior provider contract with Partners BHM, including but not limited to:
  1. properly maintaining the records and privacy of Partners BHM consumers served by Arrowood, and
  2. within sixty (60) days of any closure of Arrowood's business in North Carolina, providing Partners BHM all of Arrowood's Medicaid service records for Partners BHM consumers with dates of service between February 1, 2013 until closure.

- iv. Arrowood is current on all debts owed to and has no outstanding disputes or litigation with the Department of Health and Human Services, any LME/MCO, or any of their agents, including full payment made and conclusion of the below-described PCG audit payback and resolution of any resulting plan of correction or other related required actions.
- b. Arrowood will provide Partners BHM the PCG audit results, which because of the appeals process pursued by Ms. Arrowood, will include the final DMA Provider Summary Report indicating the issues for which DMA sought recoupment at the contested case and the Final Agency Decisions, to be considered as part of Arrowood's recredentialing application; and
- c. Arrowood will dismiss this contested case with prejudice.

4. Prior to seeking credentialing from Partners BHM, Arrowood will provide Partners BHM with an accurate and complete application for Arrowood to be credentialed as a therapist for the Contracted Agency. Arrowood agrees and Contracted Agency in writing will agree to abide by the Partners BHM decision on the new recredentialing application, without dispute or appeal, unless that decision is unequivocally reached by Partners BHM in material non-compliance with this Agreement or in non-compliance with Partners BHM's Provider Operations Manual and federal and State law. Partners BHM in turn agrees not to consider issues known to Partners BHM prior to this Agreement, hereby expressly agreeing to exclude from the credentialing consideration the known post-termination alleged Arrowood non-compliances noticed previously, namely:

- a. Assessments were altered without appropriate documentation;
- b. Signatures were incorrectly dated;
- c. Service orders were altered without appropriate documentation;
- d. Treatment plans were altered without appropriate documentation;
- e. Service notes were altered without appropriate documentation; and
- f. Transition information regarding Partners BHM consumers was not timely provided on termination.

However, Partners BHM reserves the right to consider new information learned from the aforementioned new application and items to be submitted pursuant to ¶3 above. Thus, for example, the known information regarding the Arrowood termination will no longer be considered, provided all terms of this Agreement are met, but information from the PCG audit and the resulting Final Agency Decision can be considered.

5. With or prior to any credentialing application, Arrowood shall provide Partners BHM with a written, signed statement from the Contracted Agency which attaches this Agreement and affirms Contracted Agency will abide by its terms to the extent applicable, including but not limited to the terms in Paragraphs 4, 8, 9, 10, 15 and 16.

6. Partners BHM agrees to conduct Arrowood's credentialing process without undue delay and in the normal manner afforded other credentialing applications, subject only to any exceptions created by the Parties obligations in this Agreement.

7. Arrowood agrees to attend appropriate trainings for a period of one year following the date of any credentialing approval, as reasonably required by Partners BHM not to exceed a total of ten (10) hours of training without Arrowood's consent..

8. Arrowood agrees to permit full, prompt access to and review by Partners BHM of all files and records related to Partners BHM consumers served by Arrowood in any capacity since the date of Arrowood's termination as a provider in Partners' Catchment Area.

9. Arrowood agrees as a credentialed therapist for the Contracted Agency not to see more than five (5) consumers for a period of three (3) months following recredentialing. During such time, Arrowood would submit all documentation requested by Partners BHM for post-payment or prepayment review of the therapy services provided by Arrowood, at Partners BHM's discretion. Arrowood agrees to abide by any resulting payment decisions by Partners BHM, waiving any rights to dispute or appeal those payment decisions.

10. Each Party agrees that it will not disclose the terms of this Agreement to anyone (except to its attorneys, accountants, employees who need to know the terms of this Agreement in order to carry out their job responsibilities, corporate affiliates, parents, and subsidiaries, all of whom agree to abide by the disclosure restrictions set forth in this paragraph), except as required by law, including in response to a request from regulators or as required under the NC Public Records law. Where redaction of key terms is reasonably permitted by law, the responding Party will do so.

11. The Parties represent and agree that they will not publically or privately disparage or defame the other Party, or any person associated with the other Party, or make any private or public statements that may be reasonably anticipated to be detrimental to the good name or business representation of the other Party, unless required to do so by law and truthfully made.

12. Full compliance with Paragraph 5 above, does not alleviate, obviate or excuse full performance of the other obligations under this Settlement Agreement, or remedy any breach of other obligations of either Party under this Settlement Agreement.

13. All attorney's fees, costs, or expenses related to all cases and disputes described herein shall be borne by each Party individually, and no claim for such fees, costs or expenses shall be made.

14. Each Party hereby releases the other, its current and former officials, employees, agents, and representatives, from any and all liability and causes of action that have arisen or may arise out of the Dispute and 14 DHR 08300.

15. Partners BHM expressly recognizes and agrees that the conditions placed upon Ms. Arrowood as a part of this settlement agreement will not be considered for the purposes of the Contracted Provider's credentialing with Partners BHM. However, just as any other provider, the Contracted Agency is responsible for the work performed by Ms. Arrowood to the extent it would be for any of its other credentialed therapists. Arrowood also agrees and understands that any breach of or non-compliance with this Agreement is not excused by any action or inaction by the Contracted Agency. The Parties agree that this Agreement does not diminish any other obligations existing between the parties by contract, regulation, law or other authority, including obligations of Arrowood following any recredentialing of Arrowood. Specifically, Arrowood and the Contracted Agency understand all requirements of a credentialed therapist under the Contracted

Agency continue as they would for any other credentialed clinician, notwithstanding this Agreement.

16. Petitioners further agree that:

- a. the remedy for breach of this Agreement includes the immediate decredentialing of Arrowood, with the only appeal, dispute or reconsideration of any such decredentialing being those internally provided by Partners BHM under its policies and procedures for same and expressly excluding the North Carolina administrative tribunals or judicial courts;
- b. If administrative or legal action is pursued in the future by any third party or entity, including the Federal or State Government, against Partners regarding the matters underlying this Agreement, the terms of this Agreement shall not be construed to estop or otherwise preclude Partners BHM from pursuing any claims against Petitioners or raising any issues which would be available in the absence of the settlement embodied within this Agreement. In such event, the Provider would also not be estopped or precluded from pursuing any defenses or raising any issues which would be available in the absence of this settlement. Furthermore, Partners BHM expressly reserves the right to take appropriate action in the event that a third party or other entity, including the Federal or State Government initiates legal or administrative action, including recoupment, based on evidence or allegations of improper conduct on the part of the Petitioners or Partners BHM with respect to this Agreement; and
- c. Notwithstanding any other provision of this Agreement, Petitioners will indemnify and hold harmless Partners BHM for any and all damages, including recoupments, Partners BHM might incur from or pay to state or federal regulators, Recovery Audit Contractors (RACs) or other authorities and third parties identified in ¶16b that arise out of Partners BHM's compliance with this Agreement, provided Partners BHM gives Petitioners prompt notice and opportunity to defend any such action and that Partners BHM reasonably cooperates in any such defense.

17. This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof, and there are no promises, understandings, or representations other than those set forth herein. This Agreement supersedes any and all other prior agreements and drafts regarding the subject matter hereof. This Agreement may not be amended or modified except by a writing signed by both of the Parties or their duly authorized representatives.

18. This Agreement shall be construed and governed according to the laws of the State of North Carolina. If any provisions of this Agreement are held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

19. Each Party and signatory acknowledges that it has carefully read this Agreement, knows the contents thereof, and executes the Agreement voluntarily as its own free act. Each Party

and signatory further acknowledges that it has conferred to the extent that it has deemed appropriate with legal counsel regarding this Agreement prior to its execution.

20. This Settlement Agreement may be executed electronically and/or in counterparts, each of which shall be an original, all of which taken together shall constitute one and the same instrument. The Parties may exchange signatures on this Settlement Agreement by e-sign software, facsimile or email which shall be acceptable and deemed binding as if originals.

21. The undersigned represent and warrant that they are authorized to enter into this Agreement on behalf of the Parties, and do so with full understanding of its terms and advice of counsel.

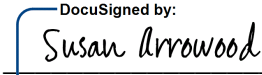
22. This Agreement is binding on the Parties' and Contracted Agency's predecessors, successors, managers, assigns, officers, directors, employees, and agents.

THIS SETTLEMENT AGREEMENT is agreed and executed hereto as follows:

**SUSAN O. ARROWOOD, personally**

By:  Date: 8/30/2016 | 9:29 PM EDT  
DocuSigned by: Susan Arrowood  
 Susan O. Arrowood

**ARROWOOD COUNSELING AND CONSULTING, INC.**

By:  Date: 8/30/2016 | 9:29 PM EDT  
DocuSigned by: Susan Arrowood  
 Susan Arrowood, Owner/President  
 P O BOX 1453  
 MORGANTON NC 28680

**PARTNERS BEHAVIORAL HEALTH MANAGEMENT**  
**A Local Management Entity/Managed Care Organization**

By:  Date: 8/30/2016 | 10:05 PM EDT  
DocuSigned by: Andrew M. Walsh  
 Andrew M. Walsh  
 General Counsel & Chief Legal Officer  
 901 S. New Hope Road  
 Gastonia, NC 28054